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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/439,314 11/12/99 SANDHU

G 95-0392.02

EXAMINER

IM22/0830

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DANG, T

ART UNIT

PAPER NUMBER

1763
DATE MAILED:

3
08/30/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/439,314

Applicant(s)
SANDHU et al

Examiner
Thi Dang

Group Art Unit
1763



☐ Responsive to communication(s) filed on _____.

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 41-62 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 41-62 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____.

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1763

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 41-56 are rejected under 35 U.S.C. 102(e) as being anticipated by ***Kumagai***.


Kumagai discloses a plasma processing system which a plasma ignition chamber (30) and a plasma etching chamber (11). ***Kumagai***'s apparatus meets the structural limitations of claimed plasma processing system as recited in claims 41-44, 50-59. The plasma etching device of ***Kumagai*** has the structural limitations of the claimed furnace assembly recited in claims 45-49. This etching device is capable of receiving a metal-containing gas (or, as applicants call it, "an induction blocker"), and it can be used for a processing a wafer using such gas. The claims contain language that is relating to the intended use of the claimed apparatus (e.g. the specific gases to be used), but such language does not define the claimed apparatus *structurally* over that of ***Kumagai***.

Claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function. *In re Danley*, 120 USPQ 528, 531 (CCPA 1959). "Apparatus claims cover what a device is, not what a device does ." (emphasis in original) *Hewlett - Packard*

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Co. v. Bausch & Lomb Inc., 15 USPQ2d 1525, 1528 (Fed. Cir. 1990). Manner of operating the device does not differentiate the apparatus claim from the prior art. A claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. *Ex parte Masham*, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987).

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Thi Dang whose telephone number is (703) 308-1973.


THI DANG
PRIMARY EXAMINER
GROUP 1700

T.D.
August 28, 2000